

January 22, 2025

The Honorable Michael Gomez
Presiding Judge
129th Judicial District Court
Harris County, Texas
Via e filing

Re: Cause No. 2024-48085; *Atlantic Wave Holdings, LLC and Secure Community, LLC v. Cyberlux Corporation and Mark D. Schmidt, Individually*; In the 129th Judicial District Court, Harris County, Texas

Dear Judge Gomez,

Judgment Debtors Cyberlux Corporation and Mark D. Schmidt refuse to answer post-judgment discovery and now argue the Judgment Creditor has shown insufficient evidence of their assets to be entitled to a post-judgment receivership. They are no different than the judgment debtors in another case, who “attempted to lie behind the log by refusing to respond to discovery seeking evidence of their assets and then arguing that [judgment creditor] is not entitled to aid to satisfy its judgment because it has no evidence of their assets. In this case, the log can provide no hiding place because permitting such an outcome would frustrate the purpose of the turnover statute, ‘by which judgment creditors may reach assets of a debtor that are otherwise difficult to attach or levy on by ordinary legal process.’” *Great Value Storage, LLC v. Princeton Capital Corp.*, No. 01-21-00284-CV, 2023 Tex. App. LEXIS 2537, at *52 (Tex. App.—Houston [1st Dist.] Apr. 20, 2023), dismissed as moot, 2024 Tex. LEXIS 216 (Tex. 2024) (quoting *Beaumont Bank, N.A. v. Buller*, 806 S.W.2d 223, 224 (Tex. 1991)). All of the Judgment Debtors’ arguments fail because this exception applies—the Judgment Debtors are refusing post judgment discovery.

Judgment Debtors cite to three cases,¹ but none of them deal with a judgment debtor who is not cooperating in post-judgment discovery. See *Stanley* (no discussion of post-judgment discovery at all); *Roebuck* at 163, (citing deposition testimony of judgment debtor describing his assets); *Bran* at *28 (“When the trial court signed the Order, the Spectrum Parties had not conducted any post-judgment discovery, so the exception based on refusal to respond to post-judgment discovery does not apply.”).

This case is not like *Stanley* or *Roebuck* or *Bran* because the Judgment Debtor is actively refusing to cooperate in Judgment Creditor’s discovery of its assets. The controlling case is *Great Value Storage, LLC* because the material fact is the refusal in post-judgment discovery.

Judgment Debtors also argue that the turnover of interests in its subsidiaries is improper because Tex. Bus. Orgs. Code § 101.112 applies and the Court can do no more than issue a charging order. This argument fails because none of the three entities are protected by § 101.112. The actual Judgment Debtor

¹ *Stanley v Reef Securities Inc.*, 314 S.W.3d 659 (Tex.App.—Dallas 2016, no pet.), *Roebuck v. Horn*, 74 S.W.3d 160 (Tex. App.—Beaumont 2002, no pet.), and *Bran v. Spectrum MH, LLC*, No. 14-22-00479-CV, 2023 WL 5487421 (Tex.App.—Houston [14th Dist.], Aug. 2003, no pet.).

is a Nevada corporation.² Its subsidiary Datron World Communications, Inc. is a foreign for-profit corporation.³ And Catalyst Machineworks, LLC was a Texas corporation, but it was voluntarily wound up in March 2024.⁴ So § 101.112 of the Texas Business and Organizations Code simply does not control. The Judgment Debtors' argument that it does apply is frivolous.

Similarly, Judgment Debtors' reliance on *Five Star Glob., LLC v. Hulme* is misplaced because that case deals with an interim receiver appointed by a court during litigation, not as a post-judgment remedy. See *Five Star Glob., LLC* at *6 (discussing interim receivership under Tex. Civ. Prac. & Rem. Code § 64.001 *et seq.*). The *Simpson*⁵ case cited by Judgment Debtors deals with a master appointed per Tex. R. Civ. P. 171 and it also just does not apply to this case. See *Simpson* at 811.

The Court should enter the proposed order the applicant submitted, not the Judgment Debtors' proposed order.

Thank you.

Very truly yours,

/s/ Travis B. Vargo

Travis B. Vargo

Unofficial Copy Office of Marilyn Burgess District Clerk

² Print out of Nevada's secretary of state page is attached as Exhibit 1.

³ Print out of Texas's secretary of state page is attached as Exhibit 2.

⁴ Certificate of Termination is attached as Exhibit 3.

⁵ *Simpson v. Canales*, 806 S.W.2d 802, 811 (Tex. 1991).

CAUSE NO. 2024-48085

ATLANTIC WAVE HOLDINGS, LLC AND
SECURE COMMUNITY, LLC,
Plaintiffs/Judgment-Creditors

V.

CYBERLUX CORPORATION and
MARK SCHMIDT, Individually,
Defendants/Judgment-Debtors.

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IN THE DISTRICT COURT OF

129th JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

EXHIBIT 1

Unofficial Copy Office of Marilyn Burgess District Clerk

Entity Information

Entity Information

Entity Name:

CYBERLUX CORPORATION

Entity Number:

C13838-2000

Entity Type:

Domestic Corporation (78)

Entity Status:

Active

Formation Date:

05/17/2000

NV Business ID:

NV20001308385

Termination Date:

Annual Report Due Date:

5/31/2025

Compliance Hold:

Unofficial Copy Office of Marilyn Burgess District Clerk

Registered AGENT INFORMATION

Name of Individual or Legal Entity:

C T CORPORATION SYSTEM**

Status:

Active

CRA Agent Entity Type:

Registered Agent Type:

Commercial Registered Agent

NV Business ID:

NV20191497453

Office or Position:

Jurisdiction:

DELAWARE

Street Address:

701 S CARSON ST STE 200, Carson City, NV, 89701, USA

Mailing Address:

OFFICER INFORMATION

View Historical Data

Title	Name	Address	Last Updated	Status
President	MARK D SCHMIDT	800 Park Offices Drive,, Suite 3209, Research Triangle Park, NC, 27709, USA	05/30/2024	Active
Secretary	JOHN W RINGO	800 Park Offices Drive,, Suite 3209, Research Triangle Park, NC, 27709, USA	05/30/2024	Active
Treasurer	DAVID D DOWNING	800 Park Offices Drive,, Suite 3209, Research Triangle Park, NC, 27709, USA	05/30/2024	Active
Director	AARON GOODMAN	800 Park Offices Drive,, Suite 3209, Research Triangle Park, NC, 27709, USA	05/30/2024	Active

Page 1 of 1, records 1 to 4 of 4

CURRENT SHARES

Class/Series	Type	Share Number	Value
	Authorized	100,000,000	0.001000000000
	Common	7,000,000,000	0.001

Page 1 of 1, records 1 to 2 of 2

Number of No Par Value Shares:

0

Total Authorized Capital:

7,100,000

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Unofficial Copy Office of Marilyn Burgess District Clerk

CAUSE NO. 2024-48085

ATLANTIC WAVE HOLDINGS, LLC AND
SECURE COMMUNITY, LLC,
Plaintiffs/Judgment-Creditors

V.

CYBERLUX CORPORATION and
MARK SCHMIDT, Individually,
Defendants/Judgment-Debtors.

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IN THE DISTRICT COURT OF

129th JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

EXHIBIT 2

Unofficial Copy Office of Marilyn Burgess District Clerk

TEXAS SECRETARY of STATE
JANE NELSON

BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

Filing Number: 802232593 **Entity Type:** Foreign For-Profit Corporation
Original Date of Filing: June 5, 2015 **Entity Status:** Withdrawn
Formation Date: N/A
Tax ID: 32055068475 **FEIN:** 200628141

Name: DATRON WORLD COMMUNICATIONS, INC.
Address: 3055 Enterprise Ct.
 Vista, CA 92081 USA

Fictitious Name: N/A
Jurisdiction: CA, USA
Foreign Formation Date: January 22, 2004

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT	ASSUMED NAMES	ASSOCIATED ENTITIES	INITIAL ADDRESS
View Image	Document Number	Filing Type	Filing Date	Effective Date	Eff. Cond	Page Count
	610407750003	Application for Registration	June 5, 2015	June 5, 2015	No	3
	711289401437	Tax Forfeiture	January 27, 2017	January 27, 2017	No	1
	715575890002	Reversal of Tax Forfeiture	February 14, 2017	February 14, 2017	No	1
	904813749100	Tax Forfeiture	August 2, 2019	August 2, 2019	No	1
	909859660001	Reversal of Tax Forfeiture	August 27, 2019	August 27, 2019	No	1
	1005191250002	Certificate of Withdrawal	October 30, 2020	October 30, 2020	No	3

Instructions:

- To place an order for additional information about a filing press the 'Order' button.

Unofficial Copy Office of Marilyn Burgess District Clerk

CAUSE NO. 2024-48085

ATLANTIC WAVE HOLDINGS, LLC AND
SECURE COMMUNITY, LLC,
Plaintiffs/Judgment-Creditors

V.

CYBERLUX CORPORATION and
MARK SCHMIDT, Individually,
Defendants/Judgment-Debtors.

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IN THE DISTRICT COURT OF

129th JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

EXHIBIT 3

Unofficial Copy Office of Marilyn Burgess District Clerk

Form 651

Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
FAX: 512/463-5709



**Certificate of Termination
of a
Domestic Entity**

Filing Fee: \$40

Filed in the Office of the
Secretary of State of Texas
Filing #: 802092484 03/21/2024
Document #: 1346156750007
Image Generated Electronically
for Web Filing

Entity Information

The name of the domestic entity is:

Catalyst Machineworks, LLC

The entity is organized as a : **Domestic Limited Liability Company (LLC)** under the laws of Texas.

The date of formation of the entity is: **October 30, 2014**

The file number issued to the entity by the secretary of state is: **802092484**

Governing Persons

The names and addresses of each of the filing entity's governing person are:

NAME OF GOVERNING PERSON :
IF INDIVIDUAL

NEILL WHITELEY

OR
IF ORGANIZATION

ADDRESS OF GOVERNING PERSON :

105 CANVAS BACK DR MONTGOMERY TX, USA 77316

Event Requiring Winding Up

The nature of the event requiring winding up is:

**The occurrence of an event specified in the governing documents of the entity
that requires the winding up, dissolution, or termination of the entity**

Completion of Winding Up

The filing entity has complied with the provisions of the Texas Business Organizations Code governing its winding up.

Effectiveness of Filing

A. This document becomes effective when the document is filed by the secretary of state.

OR

B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

Tax Certificate

A. Attached hereto is a certificate from the comptroller of public accounts that all taxes under title 2, Tax Code, have been paid.

B. The entity is a domestic non profit corporation and is not required to provide a certificate of account status under the provisions of the Texas Business Organizations Code.

Execution

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

Date: **March 21, 2024**

NEILL WHITELEY

Signature and title of authorized person(s)

FILING OFFICE COPY

Unofficial Copy Office of Marilyn Burgess District Clerk



TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

Comptroller.Texas.Gov

March 21, 2024

CATALYST MACHINWORKS, LLC
105 CANVAS BACK DR
MONTGOMERY TX 77316-1636

Certificate of Account Status

THE STATE OF TEXAS
COUNTY OF TRAVIS

I, Glenn Hegar, Comptroller of Public Accounts of the State of Texas, DO HEREBY CERTIFY that according to the records of this office

CATALYST MACHINWORKS, LLC

has filed all required reports for taxes administered by the Comptroller under Title 2, Tax Code, and taxes reported due on those reports have been paid. This certificate must be filed with the Texas Secretary of State to legally end the entity's existence in Texas. This certificate is valid through December 31, 2024.

GIVEN UNDER MY HAND AND SEAL
OF OFFICE in the City of
Austin, this 21st day of
March, 2024 A.D.


Glenn Hegar
Texas Comptroller

Taxpayer number: 32055562915
File number: 0802092484

NOTE: Failure by registered Texas entities to legally end existence with the Texas Secretary of State on or before the expiration of this certificate will result in additional franchise tax responsibilities. Texas entities not registered with the Texas Secretary of State and all out-of-state entities are responsible for franchise tax through the last date of business in this state.

Automated Certificate of eService

This automated certificate of service was created by the e filing system. The filer served this document via email generated by the e filing system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Michael Poynter on behalf of Michael Poynter
Bar No. 24092991
eservice@vargolawfirm.com
Envelope ID: 96481345
Filing Code Description: Notice
Filing Description: Response Letter
Status as of 1/22/2025 5:10 PM CST

Case Contacts

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